

As originally proposed the pesticide exemption permitted manufacture and processing of chlorofluorocarbons for use in aerosol pesticide devices intended for nonresidential food-handling uses. After reviewing the many detailed comments discussing the variety of aerosol devices and uses in food-related industries and institutions, EPA revised the rule to exempt only those aerosol devices that were not metered valve or total release devices. This revision was based on the finding that there were other methods of application and that the benefit derived from using the chlorofluorocarbon propellant, i.e., minimizing use of the pesticide, was offset by the additional exposure from metered valve and total release devices (which are often released automatically regardless of the need to apply the pesticide at that time). (See revised essential use determination support document, pp. B-5 to B-10, Mar. 17, 1978.)

Since promulgation several pesticide firms have requested that the rule be amended to delete the distinction appearing in the final rule. In essence, they have asserted that there is no environmental or health basis for distinguishing between metered valve and total release devices and other aerosol devices. EPA believes that use of metered valve and total release devices is likely to lead to increased human exposure to pesticide residues; however, other considerations have caused the Agency to conclude that the appropriate emphasis in considering the pesticide exemption from this rule should not be on the device (i.e., metered valve or total release) used to apply the pesticide.

In evaluating industry's comments to the final rule, EPA has become aware that the problems associated with metered valve and total release devices involve safety, efficacy, and legal considerations that go significantly beyond the chlorofluorocarbon issue that is the focus of this rule. The Office of Pesticide Programs (OPP) is engaged in an ongoing evaluation of these devices which ultimately will result in a decision to reregister or not reregister them under the Federal Insecticide, Fungicide, and Rodenticide Act. Therefore, the agency has decided to consider the chlorofluorocarbon aspect of the problem during the reregistration proceedings rather than to introduce the issues OPP is already considering further into this proceeding. Accordingly, EPA now proposes to amend the pesticide exemption to include metered valve and total release devices. Further evaluation and regulation will be carried out by OPP with the aid of the Office of Toxic Substances.

Requests also have been made to amend the rule to allow pesticide ex-

emptions for uses in barns, drug, and cosmetic plants, and hospitals. These requests were submitted, considered, and rejected during the rulemaking period. Because no new evidence has been presented that would justify reconsideration of these points, the requests are hereby denied.

II. REQUESTS TO CLARIFY THE PESTICIDE ESSENTIAL USE EXEMPTION

Various pesticide registrants have asked for further guidance concerning EPA's interpretation of nonresidential food handling areas (as defined in 40 CFR 762.21(c)). The final essential use support document listed food-handling areas in commercial or institutional kitchens, dining areas, and pantries as examples of what would be considered to be covered by the exemption. Further examples of permissible sites are nonresidential food-handling areas of supermarkets, food plants, food warehouses, bottling plants, hospitals, nursing homes, day-care centers, hotels, motels and egg and milk handling areas of dairies and chicken houses.

III. REQUESTS FOR NEW ESSENTIAL USE EXEMPTIONS

Belated requests were also received to allow new exemptions for products used for scuba diving equipment and for crack detectors in nuclear reactors. Although these requests contained no information which could not have been submitted during the comment period on the rule, EPA in its discretion is considering these requests because of the significance of the uses. Because these products have both civilian and military uses, EPA has referred the requesters to the Department of Defense (DOD) pursuant to the memorandum of understanding between DOD and EPA. Depending on DOD's and EPA's findings about the essentiality of the chlorofluorocarbon propellant, the Agency will decide later whether to grant or deny the requests.

IV. COMMENT PERIOD

Because of the relatively minor nature of this amendment and EPA's desire to promulgate the change before the effective date of the chlorofluorocarbon rule, a 30-day comment period, rather than the usual 60-day, is provided.

Dated: September 8, 1978.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend 40 CFR by revising part 762 as follows:

By revising § 762.21(c) to read as follows:

§ 762.21 Essential use exemptions.

(c) Flying insect pesticides: (1) For use in nonresidential food handling areas, and (2) for space spraying of aircraft.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605).)

[FR Doc. 78-26564 Filed 9-20-78; 8:45 am]

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[41 CFR Part 114-50]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Elimination to Exception to Nonallowable Moving Expenses Relating to Site Improvement

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments on a proposal to amend departmental regulations pertaining to implementation and administration of Pub. L. 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. The amendment would eliminate the exception to nonallowable moving expenses relating to site improvement required by law. This action would conform Interior policy on this subject with those of the Department of Housing and Urban Development.

DATE: Comments must be received by October 23, 1978.

ADDRESS: Send comments to the Chief, Division of Property Management, Office of Administrative and Management Policy (PAM/PM), Room 5310, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, telephone 202-343-3185.

SUPPLEMENTAL INFORMATION: All written comments made pursuant to this notice will be available for public inspection at the Division of Property Management (Room 5310) Department of the Interior, during regular business hours, 7:45 a.m. to 4:15 p.m. (except holidays). The primary author of this proposal is George W. Sandberg, Room 5310, Department of the Interior, Washington, D.C. 20240 (phone 343-3185).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under

Executive Order 11949 and OMB Circular No. A-107.

Dated: September 14, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of
the Department of the Interior.

41 CFR 114-50 is amended as follows:

Subpart 114-50.6—Moving and Related Expenses

Amend § 114-50.601-2 to read as follows:

§ 114-50.601-2 Nonallowable moving expenses and losses.

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(c) Improvements to the replacement site.

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[FR Doc. 78-26507 Filed 9-20-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 192]

[Docket No. OPS-29; Reference Notice 74-41]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Recommendations of the National Transportation Safety Board

AGENCY: Materials Transportation Bureau.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: Rulemaking action recommended by the National Transportation Safety Board (NTSB) concerning telemetry of pressure or flow data to warn of system failures, the definition of an "emergency," and closing designated valves in an emergency is not considered appropriate in light of public comments and current safety standards. The notice of proposed rulemaking is withdrawn.

FOR FURTHER INFORMATION CONTACT:

L. Furrow 202-426-0135.

SUPPLEMENTARY INFORMATION: On June 21, 1974, the Office of Pipeline Safety issued an advance notice of proposed rulemaking (ANPRM) (notice 74-4; 39 FR 24027, June 28, 1974) inviting public comments on three recommendations for rulemaking made by the NTSB in its report No. NTSB-PAR-74-3, titled, "Pipeline Accident Report—Missouri Public Service Co., Clinton, Mo., December 9, 1972." The report involved a gas explo-

sion where operator personnel arrived 50 minutes before the incident but did not shut off the flow of gas until 1 hour and 40 minutes afterward. The NTSB's rulemaking recommendations were: P-74-16. Revise 49 CFR 192.741 to require pipeline operators to telemeter gas pressure or flow data in such a way as to insure prompt warnings of significant system failures shown by pressure or flow changes. The type and location of the data points should be considered on an individual basis and should include single-fed systems serving substantial numbers of customers.

P-74-17. Define what constitutes an emergency and provide clarification of the requirements of emergency procedures under 49 CFR 192.615, emergency plans.

P-74-18. Require that designated emergency valves be the valves closed initially when a section of main is required to be isolated in an emergency.

There were 72 persons who responded to the ANPRM; and the Department's Technical Pipeline Safety Standards Committee (TPSSC) discussed the matter at a meeting in Washington, D.C., on October 31, 1974.

There were no favorable comments with regard to recommendation P-74-16. A large majority of the commenters and the TPSSC stated that with few exceptions, telemetered pressure or flow data would not show the difference between normal variations in gas flow and hazardous pipeline leaks. Other commenters pointed out that a large number of data collection points would be necessary for a data telemetry system to be effective, which would be too costly in light of potential benefits. Other commenters stated that a pipeline failure could only be detected from telemetered data by an experienced, trained observer who is familiar with the pipeline system involved, and even then the data would not show the location of the failure. Still other commenters argued that available telemetry equipment has been unreliable and its usage could lead to operational problems.

The Materials Transportation Bureau (MTB) agrees with these comments and also the view expressed by some commenters and the TPSSC that surveillance as well as employee and customer education are better ways of reasonably providing prompt leak detection than an unproven data telemetry system. Surveillance is the subject of several part 192 regulations (e.g., §§ 192.613 and 192.723) and operating instructions for employees are covered by §§ 192.603 and 192.605. Also, since the ANPRM was issued, part 192 has been amended (Amendment 192-24, 41 FR 13587, March 31, 1978) to require that operators pre-

pare and follow more detailed emergency procedures, and that personnel and customer education programs be conducted (see § 192.615). In addition to these current requirements, future rulemaking that is planned on the specifics of operating procedures should further help resolve the problems of early leak detection and timely operator response. For these reasons, recommendation P-74-16 has not been adopted.

Recommendation P-74-17, regarding emergency plans, was adopted in part by amendment 192-24. However, that amendment did not provide a definition of "emergency." Most commenters to the ANPRM and the TPSSC were against establishing a definition in part 192 because the term is generally understood and adopting any other meaning might restrict the applicability of the required emergency procedures (§ 192.615). MTB agrees. The current dictionary definition of the term "emergency" provides for the widest possible application of an operator's emergency procedures in light of the variations in gas systems and different situations that can occur requiring immediate operator response.

All the commenters and the TPSSC opposed recommendation P-74-18. Some of the significant reasons against it were: (1) Closing valves could present a greater hazard than the leak to be isolated, (2) an operator should be free to use the nearest available valves rather than predesignated ones, (3) often pipe can be dug up and isolated at the point of leakage by other means before valves can be closed and the pipeline blown down to reduce the pressure on a leak, and (4) due to the variations in operating conditions, the best regulatory approach is to require operators to develop procedures for isolating any line section in an emergency. MTB agrees with these views and has not adopted the recommendation. It should be noted that as a result of amendment 192-24, § 192.615(a)(6) requires operators to have and follow the necessary isolation and shutdown procedures.

In consideration of the foregoing, the ANPRM is hereby withdrawn.

(49 U.S.C. 1672; 49 CFR 1.53, App. A of part 1 and App. A of part 102.)

Issued in Washington, D.C., on September 15, 1978.

CESAR DE LEON,
Associate Director for Pipeline
Safety Regulation Materials
Transportation Bureau.

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[4910-60]

[49 CFR Part 192]

[Docket No. OPS-31; Reference Notice 74-7]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Definition of Gathering Line

AGENCY: Materials Transportation Bureau; DOT.

ACTION: Withdrawal of notice or proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking to establish a new definition of the term "gathering line". The proposed new definition of the term "gathering line" does not satisfactorily identify pipelines used in the gathering of gas but a new definition is no longer needed.

FOR FURTHER INFORMATION CONTACT:

L. Furrow, 202-426-0135.

SUPPLEMENTARY INFORMATION: On September 20, 1974, the Office of Pipeline Safety issued a notice of proposed rulemaking to establish a new definition in part 192 of the term "gathering line" (notice 74-7; 39 FR 34569, September 26, 1974). The term was to be defined as "a pipeline that transports gas from the point where gas is produced to the end of any treatment or other processing necessary to make the gas generally fit for consumers."

The proposed definition was intended to provide a clearer understanding of whether the Federal gas pipeline safety standards then in effect (part 192) did or did not apply to a given

pipeline located outside populated areas. The need for the proposal arose because the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1671 et seq.), which then provided the sole statutory authority for the Federal standards, provides for Federal regulation of the transmission and distribution of gas in locations outside populated areas but not the gathering of gas in those areas.

There were 30 persons who responded to the invitation for public comments in notice 74-7. Twenty-seven of these commenters and the Department's Technical Pipeline Safety Standards Committee (TPSSC), who discussed the proposal at a meeting on October 31, 1974, objected to the proposed definition, basically on grounds that it would not accomplish its objective. The primary reason which the commenters and the TPSSC advanced for their objections was that the proposed definition contained many words and phrases which are open to varied interpretation. For example, depending on the circumstances involved, a wet gas might be "generally fit for consumers" in some cases but not others. Also, if the meaning of the word "treatment" were to include odorization or the addition of propane to natural gas, some distribution lines would become gathering lines under the proposed definition. The only remedy which the Materials Transportation Bureau (MTB) sees for this definitional problem would require the establishment of a full set of definitions, covering the various terms related to the complex field of gas gathering.

Rather than propose further definitions, MTB has reconsidered the need to adopt a new definition of the term "gathering line" in light of current legislation. After issuance of notice 74-

7, the Transportation Safety Act of 1974 (49 U.S.C. 1801 et seq.) was enacted. Title I of this act, the "Hazardous Materials Transportation Act," authorizes the Department to prescribe and enforce "regulations for the safe transportation in commerce of hazardous materials." This authority covers gas pipelines that are not subject to the NGPSA, which for the most part includes gas gathering lines located outside populated areas. As a consequence, MTB has exercised this authority to extend the scope of part 192 to cover certain offshore gas gathering lines (Amdt. 192-27, 41 FR 34598, August 16, 1976). Although the authority has not yet been applied under part 192 to regulate onshore gas gathering lines located outside populated areas, MTB has proposed to enlarge the scope of the leak reporting requirements in 49 CFR Part 191 to cover these pipelines (docket No. OPS-49, notice 1; 43 FR 24478, June 5, 1978). Given this state of events, with part 192 now applicable to offshore gathering lines and rulemaking action underway with regard to rural onshore gathering lines, MTB believes there is no longer a pressing need to adopt a new definition of gathering lines to distinguish them from other pipelines in rural areas for jurisdictional purposes.

In consideration of the foregoing, notice 74-7 is hereby withdrawn.

(49 U.S.C. 1672; 49 CFR 1.53, App. A of Part 1 and App. A of Part 102.)

Issued in Washington, D.C., on September 15, 1978.

CESAR DE LEON,
Associate Director for Pipeline
Safety Regulation Materials
Transportation Bureau.

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